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SUBJECT: A/S LOWENKRON DISCUSSES NGO LAW WITH STATE DUMA
DEPUTY ANDREY MAKAROV

Classified By: Minister-Counselor for Political Affairs Kirk
Augustine. Reasons: 1.4 (b/d).

¶1. (C) SUMMARY. On January 18 DRL A/S Barry Lowenkron and EUR DAS David Kramer met with State Duma Deputy Andrey Makarov. Makarov vigorously)- and at times heatedly)- defended the new NGO legislation, insisting that the text met international legal standards, but he conceded there could be problems with its implementation. Makarov explained the reasoning behind the various objectives of the law and described the evolution of changes dealing with taxation, registration, and termination of NGOs. END SUMMARY.

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Basis for New NGO Law

¶2. (C) During a January 18 meeting with State Duma Deputy Andrey Makarov, A/S Lowenkron said he understood Makarov was one of the architects of the NGO bill and that he would like to learn about plans for its implementation. Lowenkron commented that the law troubled NGOs because the climate in which they were working had become more difficult in the past several years, and many activists were afraid it might become even worse following the adoption of the legislation.

¶3. (C) Quoting the famous 19th century Russian writer Saltykov-Shchedrin's comment that the cruelty of Russian laws was compensated for by their loose administration, Makarov said that one of the reasons for his involvement was to make the law less cruel while strengthening its administration. He said he was greatly concerned when he saw the first draft proposed by the Ministry of Justice (MOJ). He stressed that the heads of several Duma committees, many from the liberal wing of United Russia, had joined him in reworking the MOJ draft; in other words, he said, the law had not been crafted only by hardliners.

¶4. (C) Makarov said he had also become involved because he wanted to amend the original law to prevent it from becoming an additional "bludgeon" in the hands of law enforcement agencies. Makarov said he gave four major interviews last year in his capacity as Deputy Chairman of the Duma's Budget and Taxation Committee) long before the bill was adopted) in which he expressed fears that law enforcement agencies were trying to gain power in Russia. He thought they were a major force in the Russian economy and were trying to become a political force as well. Makarov explained that an NGO law with explicitly stringent parameters would actually protect NGOs from overreaching law enforcement agencies.

¶5. (C) Citing his experience during the anti-Yeltsin coup in 1993, Makarov mentioned that he had been fifth on the list of coup opponents marked for termination if it had succeeded. Insisting that he believed strongly that the democratic path was the only option for him, he saw the new NGO law as another step along that path.

¶ 6. (C) Makarov stressed that he could not see any grounds for concern with the final, amended law. He had heard only two specific complaints during his meetings with foreign and Russian NGOs, as well as with the American Chamber of Commerce. The first was that much of the language for closing an NGO had been taken verbatim from a UN resolution ensuring state sovereignty. He explained that NGOs had requested changes in terminology to better reflect NGO experiences, rather than to focus on state sovereignty. The second concern was about implementation. Makarov emphatically insisted that the new legislation was a marked improvement over the previous law, and that the real issue was not its text but subsequent GOR actions.

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Taxation and Accounting Issues under New NGO Law

¶ 7. (C) Makarov noted that tax laws dealing with NGOs were amended six months ago. Previously, NGOs were exempt from taxes only if their financial sources of income were included on a list approved by the government. Under the new law, NGOs are exempt if their financing is derived from charitable sources that conform with the law. Both foreign and Russian NGOs had to pay income taxes on their employees' salaries, as well as social security payroll taxes. If an NGO is involved in revenue-generating activities in Russia, it had to report such income based on standard tax procedures.

¶ 8. (C) Makarov explained that under the old law, tax authorities were responsible for registering and monitoring NGOs, but they were now only responsible for tax issues. In addition, previously, tax authorities could monitor funding only from Russian sources; they had no power to regulate funding derived from foreign sources. Under the new law, an

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NGO has to declare the amount, purpose, and end recipients of foreign financial support.

¶ 9. (C) Under the new legislation, Makarov noted, NGOs could be audited only once a year, and the only focus of the audit was to determine whether the funds were actually spent on the organization's stated purposes. In this respect, he argued that Moscow was mainly interested in the transparency of financial flows, in particular to Islamic officials and NGOs in the North Caucasus and Southern Russia. Many radical organizations were registered as NGOs, but there had been no provision in the old law allowing authorities to close an organization for laundering money or financing terrorism. It was possible to jail individual offenders but not close the organization, he noted. Lowenkron underscored that there were possibly better, more efficient means to close down sources of extremist financing, such as through the work of law enforcement and intelligence agencies. Makarov replied that each country dealt with extremists as it determined appropriate, while observing treaties and agreements.

¶ 10. (C) Makarov said only 110,000 of the 160,000 NGOs in Russia were registered with tax authorities, since the rest did not pay salary taxes. Hence, one-third of NGOs were off the state revenue radar. He asked rhetorically whether the U.S. would tolerate such a situation and explained that the new law would help tax collection in addition to monitoring NGOs.

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Registration and Termination of NGO Activity

¶ 11. (C) Makarov explained that a provision removed from the first draft would have allowed the Federal Registration Service (FRS) to deny registration if an NGO's leader was involved in "improper activities"; under the final version, all such decisions had to be referred to a court for final determination. In addition, the law did not allow the FRS to deny registration on the basis of "expediency"; the FRS was not allowed to evaluate an NGO's usefulness based on its

activities. In this sense, Makarov argued, the new law limited the ability of bureaucrats to act in an arbitrary manner.

¶12. (C) Also, under the new legislation, NGOs will be required to submit registration documents according to a comprehensive, finite list outlined in the law. The old practice of bureaucrats indefinitely stalling registration by demanding more and more documents would be eliminated.

Documents would be filed only with the FRS, whereas previously, at least four other agencies (e.g., tax authorities, FSB, MVD, and the MOJ) might have been involved in registration. If the FRS had any questions about documents, he said it was allowed to ask an NGO to clarify them. Denials of registration could be appealed in court.

¶13. (C) Makarov asserted that the original law contained no provision for closing down an NGO if it was involved in money laundering or extremist financing, but the new legislation included such a provision. Any other grounds to close an NGO had to be determined by a court. Makarov added that only a court ruling enabled an NGO to be shut down based on activities deemed "counter to the interests of Russia."

. Concerns over Implementation

¶14. (C) Lowenkron pressed Makarov on such issues as the vagueness of the guidelines, burdensome reporting requirements, and potential for abuse. Makarov conceded that problems could arise with implementation, but he argued that any new or significantly amended law faced similar challenges. He said the previous law, which was adopted twelve years ago, was seriously outdated and had to be amended to reflect changes in civil society. For example, Makarov explained that the laws regulating political parties and trade unions (passed several years later than the NGO law) gave detailed procedures for creating such organizations, but there was no legislative basis for registering or terminating an NGO until the current law was passed.

¶15. (C) Insisting that he respected human rights activists' opinions, Makarov stated that their "hysterical appeals" to the rest of the world and the world's excessive reaction would only provoke a negative reaction from Russia and a further tightening of the screws. Makarov insisted that Moscow was doing its best to maintain a democratic climate to the extent possible, but it was not an easy task. Any attempt to pressure the country, including in the area of NGOs, would likely backfire. He said Russia still suffered

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from "great power syndrome") it liked to learn new things but hated to be told what to do or how to do it.

¶16. (C) Makarov concluded by observing that NGOs had become a political card in the hands of players who could use it for purposes that were "somewhat murky." He maintained that he was prepared to discuss the law line by line and compare it with the original version in order to prove that it was much more democratic. He emphasized that any biased or unfair criticism only served to divert attention from other important issues, adding that some forces in the country found it convenient to divert our attention from these important issues.

¶17. (U) A/S Lowenkron has cleared this message.
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